

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

GORGE RECOVERY SERVICE,  
INC.,

Plaintiff,

v.

AMBER BEIERLE,

Defendant.

NO: 1:16-CV-3164-TOR

ORDER ACCEPTING VOLUNTARY  
REMAND

BEFORE THE COURT is Defendant's *pro se* motion to terminate this removed action (ECF No. 7). This matter was submitted for consideration without oral argument. The Court has reviewed the record and files herein, and is fully informed.

Defendant proceeding *pro se* and *in forma pauperis* removed this action on September 8, 2016, to this Court from the District Court, County of Klickitat, State of Washington. ECF No. 1. Defendant purportedly invokes this Court's federal question jurisdiction under 28 U.S.C. § 1331, but it is not at all clear that the

1 removal was timely. It is also not clear to the Court that Defendant properly  
2 effectuated the removal by filing notice with the clerk of the State court, requiring  
3 it to “proceed no further unless and until the case is remanded.” 28 U.S.C.  
4 § 1446(d). “Since a defendant may remove a case only if the claim could have  
5 been brought in federal court...the question for removal jurisdiction must also be  
6 determined by reference to the ‘well-pleaded complaint.’” *Merrell Dow Pharm.*  
7 *Inc. v. Thompson*, 478 U.S. 804, 808 (1986). “A defense that raises a federal  
8 question is inadequate to confer federal jurisdiction.” *Id.* That appears to be the  
9 case here. Federal question jurisdiction generally exists only when a federal  
10 question is presented on the face of the plaintiff’s properly pleaded complaint.  
11 *Holmes Group, Inc. v. Vornado Air Circulation Systems, Inc.*, 535 U.S. 826 (2002).  
12 There is a “strong presumption” against removal, and federal jurisdiction must be  
13 rejected if there are doubts about the right of removal. *Gaus v. Miles, Inc.*, 980  
14 F.2d 564, 566 (9th Cir. 1992).

15 Plaintiff has not appeared herein. In any event, Defendant has now filed a  
16 signed statement that the parties “have come to an agreement and no longer wish to  
17 proceed with this matter.” ECF No. 7.

18 Defendant has no unilateral right to completely dismiss an action without the  
19 consent of Plaintiff. Liberally construing Defendant’s pleading, the Court discerns  
20 that Defendant “no longer wish[es] to proceed with this [removed] matter.”

1 **ACCORDINGLY, IT IS ORDERED:**

2 1. Defendant's pro se motion to terminate this removed action (ECF No. 7)

3 is **GRANTED**. The Court hereby **REMANDS** this case to the Klickitat  
4 County District Court, State of Washington, for all further proceedings.

5 2. The Court assesses no costs, fees or expenses on any party.

6 3. The District Court Clerk is directed to enter this Order, provide copies to  
7 the parties, mail a certified copy of this Order to the Clerk of the Klickitat  
8 County District Court, and **CLOSE** this file.

9 **DATED** October 7, 2016.



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*Thomas O. Rice*  
THOMAS O. RICE  
Chief United States District Judge